

## **AMENDMENT TO THE FIGURES**

Please replace FIG. 2 with the amended FIG. 2 enclosed, which has been amended only to add the reference number 210 and to correct the erroneous reference number 126 to 26. These corrections make FIG. 2 consistent with the description thereof, and do not constitute new matter.

## **REMARKS**

This is in response to the Office action dated February 18, 2005, in which the examiner indicated that claims 8, 9, 11-14, 21 and 34 would be allowable if rewritten in independent form including all of the limitations of the respective base claims and any intervening claims, and in which the examiner rejected claims 1-7, 10, 15-20, 22, 23, 25-33 and 35-49. The applicant is appreciative of the indication of allowable subject matter. The applicant has amended claims 1, 3-6, 8, 10, 12-15, 17-21, 24, 27-28, 31, and 33-43, and canceled claims 2, 29-30, 32, and 44-49. The applicant believes the remaining claims as amended to be duly supported by the original application and in condition for allowance. The applicant therefore requests reconsideration and allowance of the remaining claims in view of the amendments and the following remarks.

### **Subject Matter Previously Indicated As Allowable**

Claims 8, 9, 11-14, 21, and 34 were indicated as allowable if rewritten in independent form including all limitations of their respective base claims and any intervening claims. Claims 8, 12, 21 and 34 have been rewritten in independent form accordingly, with the amended claim 8 including the limitations of claims 1 and 5; the amended claim 12 including the limitations of claims 1 and 10; the amended claim 21 including the limitations of claim 1; and the amended claim 34 including the limitations of claims 29 and 32.

In the claims as amended, claims 9, 15-18, 24, 27, and 28 depend ultimately on allowable claim 8, and claims 31, 33, and 35-43 depend on allowable claim 34. Claim 9 still depends on claim 8 and therefore incorporates the same limitations as when it was indicated as allowable. Since claims 8 and 34 have previously been indicated as allowable and claims 15-18, 24, 27, 28, 31, 33, and 35-43 include all the limitations of a respective allowable claim as well as additional limitations, the applicant believes that claims 15-18, 24, 27, 28, 31, 33, and 35-43 are also allowable at least because of their dependence on the indicated allowable claims.

Claims 11, 13 and 14, which were indicated as allowable, have been amended to incorporate the subject matter of claim 10 on which they were dependent, and to depend on claim 1, which has been amended. The applicant believes that the amendment of claim 1 does not disturb the reasoning for the indicated allowability of claims 11, 13 and 14, and that claims 11, 13 and 14 as amended are therefore in condition for allowance.

#### **Amended Claim 1 And Claims Dependent Thereon Are Allowable**

Claim 1 has been amended. In this amendment, claims 3-7, 10, 11, 13, 14, 19, 20, 22, 23, 25, and 26 are dependent on the amended claim 1. Of these, claims 2-6, 10, 13, 14, 19, and 20 have also been amended, and claims 7, 11, 22, 23, 25, and 26 are in their original form. Claims 11, 13 and 14 were previously indicated as allowable, and the applicant believes that indication has no reason to be disturbed by the present amendment, as mentioned above. Of the remaining claims, claims 1, 3, 5, 6, 19, 20, 22, 23, and 25 were rejected under 35 U.S.C. 102(b) with respect to U.S. patent 5,860,231 to Lee et al.; claims 4, 7, and 10 were rejected under 35 U.S.C. 103(a) with respect to Lee; and claim 26 was rejected under 35 U.S.C. 103(a) with respect to Lee in combination with U.S. patent RE 30,769 to Cobb et al.

The applicant believes the amendment to claim 1 resolves the rejection of claims 1 and 2 and places it in condition for allowance. For example, in Lee, the attachment member being oriented within a predetermined segment of the range of tilt is merely incidental to the disclosed auto-vibration mode, and therefore is not comprised in an activation state. Specifically, there is no indication in Lee that the auto-vibration mode would not function or would function any differently in any orientation of the boom, bucket and arm, so there is no meaningful sense in which an attachment member being oriented within a predetermined segment of the range of tilt is comprised in an activation state in Lee, in the context of an activation state for causing the activation signal, as in claim 1. In the Office action, claim 2 was rejected in part on the rationale that in the disclosure of Lee, when the auto-vibration is activated, the boom will be oriented at a certain range of tilt that will be predetermined, presumably by the operator at a given moment of operation. In contrast to claim 1, Lee does not disclose, for example, a system having a

predetermined segment of the range of tilt of the attachment member that is comprised in the activation state, and a remainder of the range of tilt comprised in the default state, wherein the attachment member being selectably oriented within the predetermined segment of the range of tilt comprised in the activation state is a necessary condition for causing the activation signal. Lee does not have any apparent tilt orientation or lift position that are necessary conditions for causing the activation signal. For reasons of which the foregoing are illustrative, the applicant believes claim 1 as amended is not anticipated by Lee, and respectfully requests that claim 1 be allowed.

The applicant believes that claims 3-7, 10, 11, 13, 14, 19, 20, 22, 23, 25, and 26 are also allowable at least due to the amendment to claim 1, on which they depend. The amendment to claim 1 clarifies novel and inventive elements not disclosed by Lee. Claims 3, 5, 6, 19, 20, 22, 23, and 25 incorporate these elements not disclosed by Lee, along with additional elements. Claims 4, 7, and 10 are not obvious due to Lee because they also incorporate elements not disclosed by Lee nor in the common knowledge of those having ordinary skill in the art. Claim 26 similarly is not obvious due to the combination of Lee and Cobb because it incorporates elements not disclosed by either Lee or Cobb.

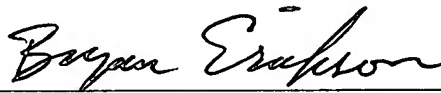
These claims include further elements beyond those of claim 1 that are not disclosed by Lee, or in the common knowledge of those skilled in the art, or in the combination of Lee and Cobb. For example, with respect to claim 23, Lee does not actually disclose a system wherein the actuator is electrically powered, and the power system provides electrical power. Rather, Lee discloses using “an electrical signal”, “electric control signals to a proportional control valve”, and a “directional control valve to intermittently feed pressurized fluid from a hydraulic pump to an actuator...” (col. 1 lines 32-53, emphasis added). The disclosure in Lee of electrical signals and a hydraulically powered actuator does not anticipate a system wherein the actuator is electrically powered, for example. Therefore, the applicant respectfully requests that the rejection of claim 23 under §102(b) due to Lee be reconsidered, independently of the dependence of claim 23 on claim 1, which the applicant also believes to be in condition for allowance.

The applicant respectfully requests that the examiner reconsider and allow all remaining claims, i.e. claims 1, 3-28, 31, and 33-43.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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